

Attorney Docket No.: DEX-0207  
Inventors: Macina et al.  
Serial No.: 09/867,034  
Filing Date: May 29, 2001  
Page 4

#### REMARKS

Claims 1 and 15 are pending in the instant application.

Claim 1 has been rejected under 35 U.S.C. under 35 U.S.C. § 112, first paragraph for lack of enablement. The Examiner has acknowledged the specification to be enabling for SEQ ID NO:5. However, the Examiner suggests that the specification does not reasonably provide enablement for any other polynucleotide with 97% identity to SEQ ID NO:5.

Claims 1 and 15 have also been rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement. The Examiner suggests that there is a lack of written description for polynucleotides comprising SEQ ID NO:5 and polynucleotides with 97% identity to SEQ ID NO:5 because the claims encompass full-length gene(s) and cDNAs that are not further described in the instant specification.

Applicants respectfully traverse this rejection.

The instant application claims priority to U.S. Provisional patent application Serial No. 60/207,383, filed May 26, 2000. Figure 5 of this provisional patent application, the contents of which are incorporated by reference into the instant application, sets forth a sequence related to SEQ ID NO:5 of the instant application

Attorney Docket No.: DEX-0207  
Inventors: Macina et al.  
Serial No.: 09/867,034  
Filing Date: May 29, 2001  
Page 5

which has at least 97% sequence identity to SEQ ID NO:5 of the instant application. Accordingly, in an earnest effort to advance the prosecution of this case, Applicants have amended the specification, and in particular the sequence listing, to include SEQ ID NO:26, the sequence of Figure 5 of the priority application having at least 97% identity to SEQ ID NO:5. A replacement paper and CRF copy of the amended sequence listing and the required statement under 37 C.F.R. 1.821 are provided herewith.

Further, Applicants respectfully direct the Examiner to SEQ ID NO:23, SEQ ID NO:24 and SEQ ID NO:25. These sequences taught in the Sequence Listing and at page 84 of the instant specification also share at least 97% identity with SEQ ID NO:5.

Thus, the specification sets forth exemplary sequences with 97% identity to SEQ ID NO:5 so that one of skill in the art can make and use the invention as claimed. Further, the specification clearly demonstrates that applicants were in possession of the invention as claimed upon filing of the instant application. Therefore, the specification meets both the enablement and written description requirements with respect to sequences with 97% identity to SEQ ID NO:5.

Further, Applicants respectfully disagree with the

Attorney Docket No.: DEX-0207  
Inventors: Macina et al.  
Serial No.: 09/867,034  
Filing Date: May 29, 2001  
Page 6

Examiner's comparison of the instant application to the Example 7 set forth in the Revised Interim Written Description Training Examples entitled EST. In that example the utility for the identified claimed sequence was hybridization to another sequence. No experiments setting forth functional characteristics, tissue source, or mRNA expression patterns in multiple different tissues such as provided in the instant application, for example at pages 81-82 and 84-86 appear to have been described. Thus, reasoning and conclusions reached regarding satisfaction of the written description in Example 7 are not applicable to the instant application wherein sufficient definitive structural and functional features of the claimed polynucleotides so that one of skill in the art can predictably identify the encompassed molecules as being identical to those now claimed are clearly set forth.

Withdrawal of these rejections under 35 U.S.C. § 112, first paragraph, is therefore respectfully requested.

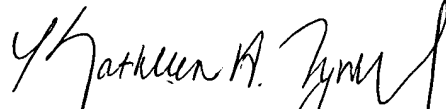
#### CONCLUSION

Applicants believe that the foregoing comprises a full and complete response to the Office Action of record.

Attorney Docket No.: DEX-0207  
Inventors: Macina et al.  
Serial No.: 09/867,034  
Filing Date: May 29, 2001  
Page 7

Accordingly, favorable reconsideration and subsequent allowance of the pending claims is earnestly solicited.

Respectfully submitted,



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